

5

**REMARKS**

Applicants have carefully reviewed the Office Action dated June 17, 2004. Claims 1, 2 and 4-11 are pending in this application. Applicants have amended Claims 1, 7 and 8 to more clearly point out the present inventive concept. Claim 6 has been canceled. Reconsideration and favorable action is respectfully requested.

Claims 1-2, 6-7 and 10 stand rejected under 35 U.S.C §102(e) as being anticipated by *Kitsukawa*. With respect to the amended claims, this rejection is respectfully traversed.

Applicants have amended Claim 1 to incorporate the limitations of Claim 6. Thus, Claim 1 is now directed toward the same system as before except that Claim 6 provides the limitations that contain either a first portion for informing the consumer that an access will be available at another desired time, i.e., the inducement, or a second portion is delivered to the consumer at the another desired time for allowing the user to access the desired advertiser location, i.e., the combination of the indicator and the tone.

Applicants believe that the *Kitsukawa* reference does not show the limitations of Claim 6. Although the Examiner indicated in the response that Claims 6-7 relate to delivering a second portion of the advertisement at a later time, Applicants believe that it is the combination of providing the inducement followed by the later sending of the information that is not disclosed or suggested by *Kitsukawa*. Thus, Applicants believe that Claim 1 as amended, now overcomes the 35 U.S.C §102(e) rejection with respect to the *Kitsukawa* reference, the withdrawal of which is respectfully requested. The remaining claims 2, 4, 5 and 7-10 are now believed to have overcome the Examiner's rejection in view of this amendment.

Claims 4-5, 9 and 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Kitsukawa* in view of *Marsh*. This rejection is respectfully traversed with respect to the amended claims.

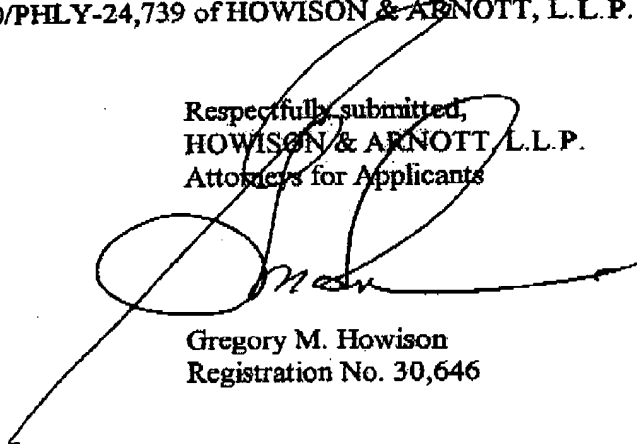
AMENDMENT AND RESPONSE  
S/N 09/382,423  
Atty. Dkt. No. PHL-24,739

6

The addition of the *Marsh* reference does not cure the deficiencies noted herein above with respect to Claim 1, since Claim 1 incorporates the limitations of Claim 6, a Claim not rejected in view of *Marsh*. Therefore, Applicants respectfully request withdrawal of the 35 U.S.C. §103(a) rejection with respect to Claims 4-5, 9 and 11.

Applicants have now made an earnest attempt in order to place this case in condition for allowance. For the reasons stated above, Applicants respectfully request full allowance of the claims as amended. Please charge any additional fees or deficiencies in fees or credit any overpayment to Deposit Account No. 20-0780/PHLY-24,739 of HOWISON & ARNOTT, L.L.P.

Respectfully submitted,  
HOWISON & ARNOTT L.L.P.  
Attorneys for Applicants



Gregory M. Howison  
Registration No. 30,646

GMH/yoc/cr

P.O. Box 741715  
Dallas, Texas 75374-1715  
Tel: 972-479-0462  
Fax: 972-479-0464  
September 17, 2004

AMENDMENT AND RESPONSE  
S/N 09/382,423  
Atty. Dkt. No. PHLY-24,739